

**28.09.2022**

Item No.44  
Ct.No.34  
dc.

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION**

**C.R.R. 1284 of 2021**

**Pralay Mukherjee  
versus  
Dipta Mukherjee (Chatterjee)**

**In Re:** An Application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

Mr. Uday Sankar Chattopadhyay,  
Mr. Santanu Maji,  
Ms. Trisha Rakshit ... For the Petitioner.

Mr. Apurba Kumar Datta,  
Mr. Bitasok Banerjee ... For the Opposite Party.

Mr. Chattopadhyay, learned advocate appearing for the petitioner is aggrieved by the warrant of arrest issued in connection with MC-EX Case No. 204 of 2016 under Section 125 of the Code of Criminal Procedure passed by the learned Judicial Magistrate, 3<sup>rd</sup> Court, Chandannagore, Hooghly. The grievance of the petitioner is twofold. Firstly, regarding added petitions being made in MC-Execution cases and secondly, the orders are being passed by taking the petitioner in surprise and warrant of arrest being issued against him.

Both the issues are required to be addressed. Firstly, the learned Magistrate would insist on fresh application for execution being filed once the payment has been cleared in respect of a particular execution case. Secondly, at the first instance, the learned Magistrate should issue notice; if the notice is not responded, the learned Magistrate would issue warrant for recovery of the arrears and not warrant of arrest at the first instance. The same should be in accordance with

the provision of sub-Section (3) of Section 125 of the Code of Criminal Procedure. It would be only at the third stage when warrant of arrest be issued.

However, having regard to the fact that the provisions were incorporated under the Code of Criminal Procedure as a measure of support in order to prevent vagrancy, I direct that the warrant of arrest so issued be stayed till 01.12.2022. In the meantime, the petitioner would approach the learned Judicial Magistrate, 3<sup>rd</sup> Court, Chandannagore, Hooghly and place his accounts regarding the payments made.

The arrears, which are calculated by the learned Judicial Magistrate, would be cleared by three equal instalments within 30.11.2022.

The learned Magistrate after 2<sup>nd</sup> December, 2022 will be at liberty to exhaust harsher process of law.

The learned Magistrate is also directed to act in accordance with the directions as stated above.

With the aforesaid observations, the revisional application being CRR 1284 of 2021 is disposed of.

All pending connected applications, if any, are consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Tirthankar Ghosh, J.)**